

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

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STAFF REPORT

Hearing Date/Agenda Number
P.C. 6-2-05 Item 3.a.

File Number
CP04-102

Application Type
Conditional Use Permit

Council District
10

Planning Area
Edenvale

Assessor's Parcel Number(s)
694-33-068

PROJECT DESCRIPTION

Completed by: Lesley Xavier

Location: Northwest corner of Cahalan Avenue and Santa Teresa Boulevard

Gross Acreage: 0.68

Net Acreage: 0.68

Net Density: N/A

Existing Zoning: CN - Commercial
Neighborhood District

Existing Use: Gas station with three vehicle workstations.

Proposed Zoning: No change

Proposed Use: Gas station with three vehicle workstations and a car wash

GENERAL PLAN

Completed by: LX

Land Use/Transportation Diagram Designation
Neighborhood/Community Commercial

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: LX

North: Commercial Shopping Center

CP Commercial Pedestrian

East: Single-family detached residential

R-1-8 Single-Family Residence

South: Single-family detached residential

R-1-8 Single-Family Residence

West: Commercial Shopping Center

CP Commercial Pedestrian

ENVIRONMENTAL STATUS

Completed by: LX

☐ Environmental Impact Report found complete
☐ Addendum to a Negative Declaration adopted on 10/12/99
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: LX

Annexation Title: Alamitos_No. 14

Date: July 17, 1968

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☒ Action
☐ Recommendation

APPLICANT/OWNER/DEVELOPER

Mansour Derakhshandeh
6095 Cahalan Avenue
San Jose, CA 95123

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: LX

Department of Public Works

- See attached.

Other Departments and Agencies

- San Jose Fire Department
- Environmental Services Department (ESD)

GENERAL CORRESPONDENCE

- None.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND****Project Description**

The applicant, Mansour Derakhshandeh, is requesting a Conditional Use Permit for the addition of a car wash to an existing gas station located in the CN Commercial Neighborhood Zoning District. The subject site is bounded by a commercial shopping center to the north and west. Single-family detached residential units are located across Cahalan Avenue and Santa Teresa Boulevard to the east and south respectively.

The 0.68-acre site located at the northwest corner of Cahalan Avenue and Santa Teresa Boulevard and is bounded on two sides by a commercial shopping center. The site is currently developed with a gas station that includes a one-story building containing three vehicle workstations for incidental car service and repair. The Zoning Ordinance defines incidental repair as including air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. It does not allow body repair or painting and no retail food, grocery items or alcohol. The applicant is proposing to add a car wash service to the existing uses on the site. A car wash is a conditional use in the CN Commercial Neighborhood Zoning District.

ENVIRONMENTAL REVIEW

The project was found to be exempt from environmental review under Section 15303 of the CEQA Guidelines, which exempts the construction or conversion from one use to another of new small structures; small facilities or structures; installation of small new equipment and facilities in small structures. The proposed project will construct a 614 square foot car wash on the site and will not have a significant impact on the environment.

ANALYSIS**General Plan Conformance**

The existing and proposed use of the site as a gas station with service bays and a car wash is consistent with the San José General Plan Land Use/ Transportation Diagram designation of Neighborhood/Community Commercial in that the intent of the designation is for shopping centers to develop as a group of commercial establishments that are related in size and type of shops to the trade area

it serves. The existing gas station with vehicle work stations is part of a shopping center that serves the surrounding residential neighborhood. The addition of the car wash use will provide another service to the neighborhood.

City Council Policy 6-10: Criteria for the Review of Drive-Through Uses

The City Council Policy, Criteria for the Review of Drive-Through Uses, was written to provide guidelines for the development of drive-through establishments with drive through facilities within the City of San Jose. Key issues identified in the policy that are relevant to this proposal include location, hours of operation, drive-through stacking, and ingress and egress.

The subject site is located on the northwest corner of Santa Teresa Boulevard and Cahalan Avenue and is surrounded on two sides by a commercial shopping center. Existing single-family residences are located behind the shopping center and across Santa Teresa Boulevard and Cahalan Avenue. The policy states that drive-through uses shall be located a minimum of 200 feet for residentially used property. The car wash is in compliance with this requirement because the existing residences are located 250 feet to the north, 245 feet to the east, and 200 feet to the south and west. The policy also states that drive-through uses shall not operate after the hour of 10:00 p.m. when adjacent to residential uses. The hours of operation of the gas station, including the car wash and vehicle workstations would be from 5:00 a.m. to 10:00 p.m. in conformance with the policy.

The policy states that drive-through stacking lanes shall have a capacity of five cars per lane (allowing 20 feet per car) for a self-service car wash. The proposed car wash is providing stacking for five cars in conformance with this requirement.

The policy states that primary ingress and egress of a drive-through type use should be from at least a four-lane major street, that there should be no pedestrian crossing of a drive-through lane, and that overflow of the stacking lane shall not spill out onto public streets or major circulation isles of any parking lot. The proposed car wash is in conformance with these requirements in that the site takes its access from Santa Teresa Boulevard and Cahalan Avenue, a six-lane street and four-lane street, respectively. The drive-through is situated so that it does not interfere with pedestrian movements, and any overflow of the stacking lane will not spill out onto public streets or major circulation isles. The car wash is situated so that it has the required stacking for five cars plus its required three additional overflow.

Commercial Design Guidelines

The Commercial Design Guidelines recommend setbacks for car wash uses. It recommends that the building is setback 25 feet from a street with a residential interface. The project provides an approximately 150-foot setback in conformance with the guideline. The Design Guidelines recommend that the parking and circulation for a car wash is setback 25 feet from the street. The project provides an approximately 60-foot setback in conformance with the guideline.

The Guidelines also recommend that vehicle workstations not face residential properties. The existing vehicle workstations face towards the residences across the street. The project proposes to change the orientation of the workstations so that they face the rear of the property in conformance with the Guidelines.

The Guidelines state that car washes should include appropriate noise control measures to reduce machinery and blower noise levels to General Plan standards. The project proposes to install a car wash that includes a noise reduction package. The noise level at the southern property line 60 feet from the car wash exit is 70 decibels and at the eastern property line 150 feet from the car wash exit is 57 decibels. Ambient traffic noise on the Santa Teresa Boulevard is an average (DNL) of 69 decibels. The ambient noise level generated by the car wash is compatible with the adjacent uses.

Project Parking

The Zoning Ordinance requires that a self-serve car wash provide one parking space per employee, plus stacking of five cars per lane. It requires a gas station with incidental service and repair to provide (1) four per vehicle work station, (2) plus one parking space per employee, plus one per air and water pump service area, plus one for information stop. The subject use employs three people, has three vehicle workstations and a car wash, which requires seventeen parking spaces $((3 \times 4) + (3 \times 1) + 1 + 1 = 17)$ and the project provides seventeen. Therefore, the proposed use of the site conforms to the required parking.

Conclusion

Based on the above analysis, staff concludes that the proposed car wash, as conditioned, provides adequate parking, car stacking, and is compatible with the surrounding neighborhood.

PUBLIC OUTREACH

Notices of the public hearing for this project were sent to all property owners within 500 feet of the subject property. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report and staff has been available to discuss the project with members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding the proposed project.

1. This site has a designation of Neighborhood/Community Commercial on the adopted San Jose 2020 General Plan Land Use/ Transportation Diagram.
2. The project site is located in the CN Commercial Neighborhood Zoning District.
3. The applicant is requesting this Conditional Use Permit to allow for that addition of a self-service car wash to an existing gas station with three vehicle workstations in the CN Commercial Neighborhood Zoning District.

4. The 0.68-acre site is developed with a one-story building containing three vehicle workstations for incidental car service and repair and three gas pump islands.
5. The site is surrounded by commercial uses to the north and west and residential uses to the east and south.
6. The Zoning Code requires that a self-serve car wash provide one parking space per employee, plus stacking of five cars per lane and that a gas station with service bays provide one parking space per employee, plus one per air and water pump, plus one for information stop, plus four per vehicle work station. The subject use employs three people. The gas station with three vehicle workstations and a car wash requires seventeen parking spaces and the project provides seventeen.
7. The project was found to be exempt from environmental review under Section 15303 of the CEQA Guidelines, which exempts the construction or conversion of new small structures; small facilities or structures; installation of small new equipment and facilities in small structures. The proposed project will construct a 614 square foot car wash on the site and will not have a significant impact on the environment.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

- a. The proposed project will be consistent with the adopted San Jose 2020 General Plan Land Use/ Transportation Diagram of the City of San Jose.
- b. The proposed project complies with all applicable provisions of the Zoning Ordinance.
- c. The proposed project is in compliance with the California Environmental Quality Act.
- d. The proposed use is compatible with the surrounding neighborhood.

Finally, based upon the above stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons residing or working in the surrounding area; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highway or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate and; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be submitted prior to issuance of a Building Permit. **Submittal of the recording fee less than one week prior to issuance of a Building Permit will delay the Building Permit issuance** for up to one week to allow for recordation of the permit with the County Recorder. This Permit shall be effective at such time when recordation with the County of Santa Clara occurs.
2. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Public Works Clearance for Building Permit(s):** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - c. **Street Improvements:** Remove and replace broken or uplifted curb, gutter, sidewalk and driveway along project frontages and remove wheelchair ramp at the corner of Cahalan and Santa Teresa and replace with City of San Jose standard wheelchair ramp.
 - d. **Electrical:** Installation and/or relocation of electrolier(s) on project frontages may be required.
 - e. **Stormwater Runoff Pollution Control Measure:** This project must comply with the City's Post Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges.
 - f. **Landscape:** Replace any missing street trees along the project frontages and match existing trees.
5. **Construction Hours.** Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project.
6. **Storm Drain Protection.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain systems flows to the Bay.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "New Carwash for Calco" dated February 16, 2005 on file with the Department Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 24).
3. **Hours of Operation.** The drive-through portion of the land use shall not operate after the hour of 10:00 p.m.
4. **Car Wash.** To prevent water drippage on streets an automatic drying system shall be used at the exit of the car wash.
5. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
6. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
7. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP04-102, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.

9. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **Outdoor Storage.** No outdoor storage is permitted.
12. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

c: Owner
Applicant

